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Participants : Singh Shri Arjun,Modi Shri Sushil Kumar,Atwal Shri Charnjit Singh,Sethi Shri Arjun Charan,Singh Shri Arjun,Krishnaswamy Shri A.,Ramadass Prof. M.,Ramachandran Shri Gingee N,Ponnuswamy Shri Mohan,Yadav Shri Devendra Prasad,Azmi Shri Iliyas,Nitish Kumar Shri ,Chatterjee Shri Somnath,Subbarayan Shri K.,Kharventhan Shri Salarapatty Kuppusamy,Singh Shri Mohan,Jagannath Dr. M.

Title : Shri A. Krishnaswamy called the attention of the Minister of Human Resource Development to the need for legislation for reservation to Scheduled Castes, Scheduled Tribes and other Backward Classes in Higher Educational Institutions recognized/aided by the Government and self-financing institutions of the country in accordance with the Constitutional provision on reservation.

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12.01 ½ hrs.

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CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

(i) Need for Legislation for Reservation to Scheduled Castes, Scheduled Tribes and other Backward Classes in Higher Educational Institutions

MR. SPEAKER: Now, the House shall take up Item No. 5, Calling Attention.

This is a matter which is agitating a large number of hon. Members. According to the system we have, names that came in the ballot have been mentioned, and I will try to accommodate them. But please do not try to hassle me. Shri A. Krishnaswamy.

SHRI A. KRISHNASWAMY (SRIPERUMBUDUR): Sir, I call the attention of the Minister of Human Resource Development to the following matter of urgent public importance and request that he may make a statement thereon:

> "Need for a suitable legislation providing for reservation to Scheduled Castes, Scheduled Tribes and Other Backward Classes in all the higher educational institutions recognised/aided by the Government and self-financing institutions of the country in accordance with the Constitutional provision on reservation."

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI ARJUN SINGH): Sir, the Supreme Court in its judgement dated 12th August, 2005, in the case of P.A. Inamdar and Others Vs. State of Maharashtra

and Others, has held *inter alia* that in case of unaided professional educational institutions, minority or non-minority, the State has no authority of reservation of quota of State seats or enforcing reservation policy of the State on available seats, since this constitutes serious encroachment on the right and autonomy of private professional educational institutions. Such appropriation of seats can also not be held to be a regulatory measure in the interest of minority within the meaning of Article 30(1)

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*(Placed in Library, See No. LT 2638/05)

or a reasonable restriction within the meaning of Article 19(6) of the Constitution. Merely because the resources of the State in providing professional education are limited, private educational institutions, which intend to provide better professional education, cannot be forced by the State to make admissions available on the basis of reservation policy to less meritorious candidates. Unaided institutions, as they are not deriving any aid from State funds, can have their own admission if fair, transparent, non-exploitative and based on merit.

The issues addressed in the judgement have been the subject matter of intense discussion and consultation in various forums in the last few years. The Human Resource Development Ministry had organised a two-day meeting of State Ministers of Higher and Technical Education at Bangalore on 10-11 January, 2005. Based on the deliberations in the above consultation, a draft legislation was prepared and was circulated during the last meeting of the Central Advisory Board of Education (CABE) held on 14-15 July, 2005. The draft legislation also addresses the concerns of the hon. Members of Parliament with regard to the provision for Government reservation for SC, ST and OBCs[KMR1].

Even as we were awaiting the comments from all the State Governments, the above judgement of the hon. Supreme Court has, in a substantial way, affected the proposed scheme in the draft legislation. It is important that we try and understand the implications of the judgement and evolve a national approach to this important issue. This approach must address national, social and constitutional imperatives in a holistic manner. To evolve this national approach, I have convened a meeting of the State Ministers in charge of professional education on 27th August, 2005 in New Delhi. We do hope that we will be able to come to a common understanding on this issue. We will also be benefited by today's discussion and the hon. Members suggestions in this regard.

SHRI A. KRISHNASWAMY (SRIPERUMBUDUR): Sir, the Supreme Court of India in its recent judgement had ruled that the self-financing colleges need not provide quota for Government allotment. This is a direct blow to social justice. India is one of the lowest ranked countries in terms of literacy in comparison to the other countries of the world.

Sir, between the first amendment in 1950 and now, our leaders had made great struggles to bring reservation for the SCs, the STs and the OBCs.

MR. SPEAKER: Shri Krishnaswamy, I am sorry. You are not in your seat. Do not take it so lightly. You could have taken my permission.

SHRI A. KRISHNASWAMY : I am sorry, Sir.

MR. SPEAKER: I can understand your exuberance.

SHRI A. KRISHNASWAMY : India is one of the lowest ranking countries in terms of literacy, particularly for socially Backward Classes, the Scheduled Castes and the Scheduled Tribes. Great leaders of Tamil Nadu, particularly, our beloved leader, EVK Periyar, Perarignar Anna and Karmaveerar Kamaraj made great struggles to give benefits to the Backward Classes, the Scheduled Castes and the Scheduled Tribes, with the help of Jawaharlal Nehru.

Pandit Jawaharlal Nehru was the first person who amended the Constitution, and vehemently supported reservation. Social justice is a policy which had come into force after many years of consistent struggle by great leaders in the country. This struggle was equivalent to the Independence struggle.

Our leader, Dr. Kalaignar Karunanidhi has been pressing firmly on certain important issues relating to reservation for a long time - namely, the removal of the creamy layer criterion from the purview of reservation, extending the benefit of reservation to the OBCs in the educational institutions controlled/financed/aided by the Government of India, constitution of a separate Parliamentary Committee for OBCs, and empowering the State Governments to decide the percentage of reservation to the SCs/STs and BCs/MBCs based on the size of the population.

The hon. Minister, in his reply, stated that unaided institutions, as they are not deriving any aid from State funds, can have their own admission if fair, transparent, non-exploitative and based on merit.

In this context, I would like to quote and call your attention to the Tenth Five Year Plan of the Government of India. It says:

> "The issue of access and equity are central to the university/higher education system. Only about six per cent of the estimated population in the 18-23 age group is currently in the university system. Measures to increase enrolment, including that of the disadvantaged sections, that is, SCs, STs, and OBCs, will thus be given attention during the Plan."

This is what the Tenth Plan says.

While the Government aims at the laudable objective of providing higher education to the disadvantaged sections like the SCs, STs and OBCs, the present ruling by the Supreme Court will only be a stumbling block to the efforts of the Government.

In his reply, the hon. Minister has also stated that he has convened a meeting of the State Ministers in-charge of professional education on the 27th August, 2005 in New Delhi. I welcome it. But at the same time, in the Islamic Academy case, a senior learned Counsel, appearing for the State of Tamil Nadu, submitted that

already a statement had been made in the High Court that the State of Tamil Nadu would not be insisting on communal reservation based on State policy in the minority institutions.

MR. SPEAKER: The Minister cannot answer on that.

SHRI A. KRISHNASWAMY : If such is the situation, when you organise a meeting, there would be a dual stand. One is the stand in front of the court and the other stand is in front of the public[R2].

A comprehensive legislation should be brought by our hon. Minister for providing reservation quota in the Government allotment in the self-financing of higher educational institutions, for ensuring that these institutions contribute to the policies of the Government of India and for accelerating the goal set by the Planning Commission of India.

SHRI K. SUBBARAYAN (COIMBATORE): Sir, the Supreme Court Judgement has virtually wiped out the Government quota and reservation policy. In this context, I emphasise that it is the bounden responsibility of the Union Government to protect the reservation policy on Government quota system. Will the Government of India come forward to bring in a suitable amendment to Law? It is an issue of ensuring social justice. If it is not set right immediately, it will create a serious law and order problem. Therefore, an appropriate amendment in the law is needed immediately for this.

PROF. M. RAMADASS (PONDICHERRY): Respected Sir, I wish to draw the attention of the hon. Human Resource Development Minister to the anomalous and nebulous but explosive situation created by the judgement of the Supreme Court. The Supreme Court has upheld the unfettered rights of the private institutions to admit students and also to prescribe the fees as they like. I wish to point out to this august House that the private institutions, unaided institutions have no unfettered rights. But they have a social responsibility towards the society. There is no institution in the country which is beyond the purview of the society. They are part of the society. They will have to discharge their responsibility. The concept of 'unaided' itself has to be clearly understood by everybody. Can a private institution exist on its own without using the societal resources? Can they establish an institution without the land resources for example?

MR. SPEAKER: Hon. Minister has said that he has not accepted. The Judgement is binding on everybody.

PROF. M. RAMADASS : The Judgement is untenable. We will have to come to the rescue of the poor students who are affected by this Judgement in various institutions. This Judgement shows the anomalous situation that was created because the successive Governments – both Central and State Governments – have failed to accept the leadership in higher education. From 1991, we have allowed the private institutions to grow in a mushroom way. We could not provide the necessary funds for the development of higher education. All the Commissions -- Dr. Radhakrishnan Commission, Kothari Commission, Acharya Commission and the New Policy on Education propounded by late Rajiv Gandhi -- have said that the Government should spend at least six per cent of the Gross Domestic Product on education. But we have not taken that advice. We have withdrawn from our responsibility to provide higher education and we have allowed all kinds of institutions to come into the sphere.

The Supreme Court Judgement says that the private, either aided or unaided, institutions are providing meritorious education in this country. Look at the various realities that are coming from the private sector. They do not have proper faculty. They charge very high fees. They are not accountable to the fees that they collect. There is no qualitative education. There is no standardised education. How can they provide meritorious education and then say that the State Governments have no right over the institutions to provide for reservation? We are not finding fault with any Government. But it is our responsibility to discharge our duty in the field of higher education.

As my learned friend has said, today India has only six per cent of the total student population in the age group of 18-23 in higher education. When you segregate this percentage population, not even 1.5 per cent of the students from SCs, STs and OBCs come. The majority of the higher institutions are in the private sector. If the private sector is not going to offer opportunities of education or access to education, what will happen to the fate of these students? When we make reservation in employment opportunities, we are not providing reservation to OBCs in the educational institutions.

Sir, one of the salient aspects of the judgement is the operating para of the last sentences, where the Supreme Court judgement clearly says:

> "It is for the Central Government or for the State Governments, in the absence of a Central legislation, to come out with a detailed, well thought out legislation on the subject. Such a legislation is long awaited. States must act towards this direction. Judicial wing of the State is called upon to act when the two other wings -- Legislature and the Executive do not act. The earlier the Union of India and the State Governments act, the better it would be. "

Therefore, the Supreme Court itself has given a mandate to the Parliament and to the Union Government to enact a comprehensive legislation; and to draft this legislation, I would urge upon the hon. Human Resource Development Minister to constitute a high-powered committee, a committee of experts consisting of academicians, legal luminaries, economists and sociologists. Let them form a committee and draft a legislation keeping in view the Constitutional guarantees we have provided to the cause of social justice, and bring about a suitable legislation. The Government should also open more Government colleges in the area of professional education and dispense with our long dependence on the private educational institutions. About the private education, unless they provide a meritorious education, they are not going to contribute to the human resource development of this country.

Therefore, we urge that a suitable legislation be brought forward.

MR. SPEAKER: He has already said it.

PROF. M. RAMADASS : Sir, I wish to mention as to 'how the legislation should be.' The legislation should not only take into account the Constitutional provision, but should declare that the reservation quota will be decided by the respective State Governments based on the local realities and the availability of the institutions.

MR. SPEAKER: Thank you very much.

श्री सुशील कुमार मोदी (भागलपुर) : अध्यक्ष महोदय, निजी संस्थानों की आजादी जितनी महत्वपूर्ण है, सामाजिक न्याय भी उतना ही महत्वपूर्ण है। सुप्रीम कोर्ट का जो निर्णय आया है, उसके सन्दर्भ में मैं कहना चाहूंगा कि जो मण्डल कमीशन आया था, उसने भी साइन्टिफिक, टेक्निकल और प्रोफेशनल कॉलेजों में 27 प्रतिशत आरक्षण की अनुशंसा की थी। इसी तरह जो पहला बैकवर्ड क्लासेज कमीशन बना था, उसने भी 17 प्र ातिशत आरक्षण की अनुशंसा की थी। मैं सदन को बताना चाहूंगा कि हमारे देश में आईआईटी जैसी संस्थाओं में एससी, एसटी के लिए आरक्षण की व्यवस्था वर्ा 1973 से लागू है। जब आईआईटी जैसी संस्थाओं में आरक्षण की व्यवस्था लागू है और आप निजी संस्थानों में इसे लागू नहीं करेंगे तो आज स्थिति यह है कि हमारे देश में जो 1265 इंजीनियरिंग कॉलेज हैं, out of these 1,265 colleges, 974 are self-financing colleges, and in a State like Andhra Pradesh alone, 4,39,000 students are being admitted only in the engineering colleges, अगर आप उन कालेजों में पिछड़े वर्गों और दलितों के लिए आरक्षण खत्म कर देते हैं तो इससे लाखों छात्रों का भविय अन्धकार में चला जाएगा और जो गरीब, दलित और पिछड़े वर्ग के छात्र हैं, वे इस व्यवस्था के लाभ से वंचित रह जाएंगे।

महोदय, संविधान के तहत हमने नौकरियों में आरक्षण की व्यवस्था की है। जब नौकरियों में आरक्षण की व्यवस्था है और कोई व्यक्ति इंजीनियर की नौकरी पाना चाहता है, यदि वह इंजीनियरिंग की पढ़ाई नहीं कर पाता है तो वह इंजीनियर की नौकरी मे कैसे जा सकेगा? If we are providing reservation in jobs for the SCs and OBCs, it is a natural corollary that we should provide reservation in the educational institutions also so that they can avail the reservation opportunities in jobs also.

अध्यक्ष महोदय, मैं एक अन्य बात कहना चाहूँगा कि जो माइनारिटी इंस्टीट्युशन्स हैं, उनमें भी एससी, एसटी और ओबीसी के लिए आरक्षण का जो प्रावधान है, उसे कड़ाई से लागू किए जाने की आवश्यकता है। जब किसी राज्य में कोई इंजीनियरिंग कॉलेज खोला जाता है तो कोई व्यक्ति उसे *सुओ मोटो* नहीं खोल सकता है। He has to take permission from the AICTE. Similarly if someone wants to open a medical college, he has to take permission from the Medical Council of India.

अध्यक्ष महोदय, अगर कोई परमीशन लेकर कॉलेज खोलता है तो स्टेट गवर्नमेंट को पूरा अधिकार है कि वह बाध्य करे कि उस संस्थान में रिजर्वेशन पॉलिसी को लागू किया जाए। जिस तरह से जमीन के बारे में व्यवस्था है कि कितना एसेट है, उसके बारे में कंपेल किया जा सकता है, उसी तरह से राज्य आरक्षण की नीति को भी लागू कर सकते हैं। इस निर्णय से न केवल एससी, एसटी और ओबीसी के लोग प्रभावित होंगे, बल्कि महिलाएं भी इससे प्रभावित होने वाली हैं क्योंकि आन्ध्र प्रदेश जैसे राज्य में सभी वर्गों में 30 प्रतिशत आरक्षण महिलाओं के लिए होता cè[k3]। अगर यह आरक्षण खत्म कर दिया गया तो महिलाएं भी इससे वंचित हो जाएंगी। 23 अगस्त, 2004 को कर्नाटक में सभी राजनीतिक दलों की मीटिंग हुई थी, वहां के मुख्य मंत्री की अध्यक्षता में। सभी राजनीतिक दलों के लोग मंत्री जी से मिले थे और यह मांग की थी कि सेंट्रल लेजिस्लेशन लागू किया जाना चाहिए। लेकिन बड़े दुख के साथ कहना पड़ता है कि एक साल हो गया, अभी तक केन्द्रीय कानून लागू नहीं किया गया है। इसलिए मेरा आग्रह है कि इस सम्बन्ध में तत्काल सभी राजनीतिक दलों की मीटिंग बुलाई जाए। निजी शैक्षणिक संस्थानों में अगर दलितों को, पिछड़ों को और महिलाओं को आरक्षण देने के लिए संविधान में संशोधन करने की जरूरत पड़े, तो उसके लिए सहमति बनाई जाए। निजी संस्थानों को स्वतंत्र रूप से कार्य करने के लिए छोड़ देंगे, तो वे गरीबों को उनके अधिकार से वंचित कर देंगे। इसलिए सरकार तत्काल निर्णय करे और सभी राजनीतिक दलों की मीटिंग बुलाकर सेंट्रल लेजिस्लेशन को लागू किया जाए, जिससे दलितों, पिछड़े वर्ग के लोगों के लिए आरक्षण की व्यवस्था की जा सके।

अध्यक्ष महोदय, मैं एक बात और कहना चाहता हूं कि आने वाले समय में जो लड़के अन्य राज्यों से वहां शिक्षा ग्रहण करने आते हैं, उनके लिए भी आरक्षण का प्रावधान करना चाहिए। कर्नाटक में, आंध्र प्रदेश में बिहार आदि राज्यों से लाखों लड़के पढ़ने जाते हैं। इसलिए अन्य राज्यों से आने वाले विद्यार्थियों के लिए भी आरक्षण की व्यवस्था करनी चाहिए।

MR. SPEAKER: You all are aware of the position. Considering the sensitivity of the matter, I have given priority. It was raised only yesterday and today we are having a discussion. Members know the rules - one clarification is permitted. I am allowing a lot of submissions to be made. Let me regulate it as much as possible.

… (*Interruptions*)

श्री इलियास आज़मी (शाहाबाद) : अध्यक्ष महोदय, मुझे भी बोलने का अवसर दें।

अध्यक्ष महोदय : आप मेहरबानी करके बैठ जाएं।

SHRI GINGEE N. RAMACHANDRAN (VANDAVASI): On behalf of Marumalarchi Dravida Munetra Kazagam and our Party Leader Thiru Vaiko, I am expressing my views on the recent verdict of the Supreme Court regarding the reservation policy in all private unaided engineering and medical colleges. Social justice is being denied by this judgement as the poor people, weaker sections of the society, the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes are deprived of their legitimate rights. The judgement gives more power to the minority institutions and other majority colleges being run by the private persons.

I would request the Minister to bring a legislation to give reservation to the weaker sections of the society for admission in unaided colleges. In Tamil Nadu, it is on terminal point. Our beloved Leaders, Periyar, Anna and other leaders have fought for the cause of social justice to the backward classes, the Scheduled Castes and the Scheduled Tribes. I would like to request the Minister to introduce a Bill, to safeguard the interest of the weaker sections of the society, including the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, to restore the reservation policy in the unaided professional colleges, including medical and engineering colleges. I would like to know whether the Government is interested to enact a legislation to define who is a minority. I would like to know from the hon. Minister as to who is a minority. The judgement says that any person who is running a minority institution or a linguistic institution can admit anybody from any State. What does it mean? A linguistic minority institution in Tamil Nadu can admit any person from any State. Also, more powers are given to the private colleges. They can fix their fees, take decision for admission, conduct common entrance examination and so on. Ample powers are given to them. Is the Judiciary encroaching upon the powers of the Parliament or the Government of India? Will they take the decision? Parliament is the supreme authority. I would request the Minister to take immediate decision in this matter of serious concern.

MR. SPEAKER: Hon. Members, please allow me to conduct the House. I feel the sentiments of the House. I have said that all sections of the House are concerned but there is something called procedure. According to the Rule, five hon. Members have been permitted[R4].

They have made fairly long submissions but there were two hon. Members who had also given notices.

… (*Interruptions*)

अध्यक्ष महोदय : आप हाथ नीचे कर लीजिए। It only distracts me. I want to help you but if you do not have the patience to hear me, then how can I conduct the House? There were two hon. Members who had taken the trouble of putting in the Calling Attention notices. They did not come successful in the ballot. I want to call

them. If you please cooperate by making only one observation instead of making a long speech, then I can accommodate all the sections of the House so that the Government does know that every section of the House is of a particular view. That will help.

Now Shri Kharventhan to speak. Please be brief and say that you support the proposed legislation.

SHRI S.K. KHARVENTHAN (PALANI): Sir, the recent judgement of the Supreme Court is anti-public. According to this judgement, "Have the money, go to the college and get the admission." That is the result of the judgement. The reservation given to the poor students in rural areas throughout the country is totally affected. Out of 2000 engineering colleges, 1000 are private colleges. Similarly, out of 205 dental colleges, only 30 are owned by the Government. So, it will adversely affect all the poor students in the rural areas.

Hence I urge upon the Government to bring an Act paving way for the reservation for Scheduled Castes, Scheduled Tribes and OBCs.

MR. SPEAKER: Thank you very much. This is how you should cooperate.

SHRI P. MOHAN (MADURAI): Sir, I had given notice for the Calling Attention. The hon. Minister has stated his reply that to meet the situation arising out of the Supreme Court verdict, he would hold a meeting of the State Education Ministers. I appreciate the move. However, I would like to get a positive assurance from the Minister that the Government would protect the interest of the Scheduled Castes, Scheduled Tribes and OBCs and that they would be given social justice.

SHRI CHARNJIT SINGH ATWAL (PHILLAUR): Sir, I will not take much of your time. I would like to draw the attention of the hon. Minister for Human Resource Developed to two important things.

इन दिनों सुप्रीम कोर्ट की दो जजमेंट आई हैं - एक तो यह है कि अगर हम हायर एजूकेशन में एससी बच्चों को रिजर्वेशन नहीं दिल वाएंगे तो फिर वे नौकरियों में भी रिजर्वेशन नहीं ले सकेंगे। आप रिजर्वेशन एनआरआईज को देंगे, मैनेजमेंट कोटे से देंगे। इसलिए मैं माननीय मिनिस्टर साहब से रिक्वैस्ट करना चाहता हूं कि आप मैनेजमेंट कोटा देना चाहते हैं तो दें, एनआरआईज को देना चाहते हैं तो दें, लेकिन एससी का जो टोटल रिजर्वेशन है वह इनटैक्ट रहना चाहिए। ऐसा नहीं होना चाहिए कि एससी के कोटे से एनआरआईज या मैनेजमेंट कोटा दे दें। दूसरा जजमेंट आंध्रप्रदेश का आया है - उस जजमेंट ने क्या किया? उसे सुप्रीम कोर्ट ने हैल्ड कर दिया है कि एससी के बारे में, स्टेट गवर्नमेंट को प्रॉि वजन बनाने या लैजिस्लेशन करने का अधिकार नहीं है। उसका रिजल्ट यह निकला है कि पंजाब और हरियाणा में बाल्मीकियों का, रिजर्वेशन मिलने से पहले आईपीएस, आईएएस अधिकारी नहीं था, आज 23-24 साल रिजर्वेशन मिलने के बाद, दो आईएएस, चार-पांच आईपीएस ऑफिसर्स हुए हैं और 8-10 पीसीएस भी हुए हैं। लेकिन बदकिस्मती से, जजमेंट आने से जो उनको 50 प्रतिशत रिजर्वेशन मिलता था, वह भी खत्म हो गयÉÉ[r5]।

महोदय, मैं कहना चाहता हूं कि यह जो बिल इंट्रोड्यूस हुआ है, उस बिल में ही मैं चाहूंगा, क्योंकि राज्य ही अपने यहां के हालत को, सोशल लाइफ को अच्छी तरह से जानते हैं और कौन-कौन सी कास्ट्स पिछड़ी हुई हैं, इसे अच्छी तरह से जानते हैं, इसलिए मैं चाहता हूं कि इसी में आ जाना चाहिए था कि राज्य को यह अधिकार होना चाहिए कि अगर वह कैटेग्राइजेशन करना चाहे, रिजर्वेशन विदइन रिजर्वेशन, तो उसे यह

अधिकार मिलना चाहिए। मैंने दो बातें कही हैं- एक तो जो प्राइवेट हायर एजूकेशन है, उसमें रिजर्वेशन होना चाहिए। जो बिल आ रहा है उसमें राज्यों को यह अख्तियार मिलना चाहिए कि वे अपने राज्यों के हालात के आधार पर रिजर्वेशन विद इन रिजर्वेशन कर सकें।

MR. SPEAKER: Please do not raise your hands. I have made my own list. So, there is no good raising your hands.

श्री देवेन्द्र प्रसाद यादव (झंझारपुर) : महोदय, ऐसी क्या बात है? मैं तो कभी...(व्यवधान)

अध्यक्ष महोदय : आपको बोलने का मौका दिया गया है, आप बोलिए। क्या आप गुस्से में हैं।

श्री देवेन्द्र प्रसाद यादव : सभी लोग मुझे इंस्ट्रक्शन दे रहे हैं, क्या बात है...(व्यवधान)

अध्यक्ष महोदय : हम कोई इंस्ट्रक्शन नहीं दे रहे हैं, हमने आपको परमिट किया है। आप बोलिए। Do not get misled by others. But this should not be taken as a precedent in future.

श्री देवेन्द्र प्रसाद यादव : अध्यक्ष महोदय, मैं आपका आदर करता हूं। आपने मुझे अनुमति दी है, इसके लिए मैं आपको धन्यवाद करता हूं। महोदय, सुप्रीम कोर्ट के निर्णय के बाद आज जो स्थिति पैदा हो गई है, उसके कारण देश के सामाजिक न्याय और विशेा अवसर के सिद्धांत पर आधात हुआ है। भारतीय संविधान की धारा 15(4) के तहत जो देश के कमजोर वर्ग हैं, चाहे एससी हों, एसटी हों, ओबीसी हों, उनको विशेा अ वसर देने के लिए संविधान में यह सिद्धांत प्रतिपादित हैं। आज इस सिद्धांत की मंशा के विपरीत सुप्रीम कोर्ट का जो निर्णय हुआ है, वह सामाजिक न्याय सिद्धांत के विपरीत है, सामान्य न्याय के भी विपरीत है और प्राकृतिक न्याय के भी विपरीत है। इस देश में 54 प्रतिशत लोग ओबीसी हैं और लगभग 24 प्रतिशत एससी, एसटी हैं। लगभग 78 प्रतिशत इस देश की जो आबादी है, उनके बच्चों को तकनीकी शिक्षा, उच्च शैक्षणिक संस्थाओं या निजी शैक्षणिक संस्थाओं में दाखिल होने का दरवाजा बंद कर दिया गया है, सुप्रीम कोर्ट के निर्णय से आयरन फिल्टर गेट लगा दिया गया है। यह बहुत ही दुर्भागयपूर्ण स्थिति है। इसलिए अध्यक्ष महोदय, मैं आपसे निवेदन करना चाहता हूं खास कर माननीय मंत्री जी से कि लेजिस्लेशन लाने की बात सदन में हो रही है, वे इसे तो लाए हीं, और माननीय मंत्री जी ने भी कहा है कि जो सरकार का विधेयक लाने का प्रयास है, उस प्र यास को धक्का लगा है। यह बहुत ही अच्छी बात है कि उसमें धक्का न लगे, इसका उपाय आज ही सदन में होना चाहिए। इसके लिए अभी तत्काल विधेयक लाना चाहिए क्योंकि 27 प्रतिशत जो उच्च श्रेणी की नौकरियों में आरक्षण दिया गया है वह भी खंडित हो जाएगी। नौकरियों का क्या होगा? जब उच्च शिक्षा, मेडिकल में नहीं जाएंगे, इंजीनियरिंग में अन्य पिछड़े वर्ग के लोग, एससी, एसटी के बच्चे नहीं जाएंगे तो उनको 27 प्रतिशत जो मंडल कमीशन के तहत व्यवस्था है और जो सुप्रीम कोर्ट ने इसके लिए प्रावधान किया है, जो सहमति दी है, उसका भी कोई मतलब नहीं होगा। इसलिए मेरा निवेदन है कि एक लेजिसलेशन, एक विधेयक तो लाया ही जाए। 27 तारीख को व्यावसायिक राज्यों के शिक्षा मंत्रियों की बैठक बुलाई गई है। मैं इस बैठक का स्वागत करता हूं लेकिन उस बैठक के बाद सदन स्थगित हो जाएगा, इसलिए विधेयक लाने की परिस्थिति नहीं होगी। इसलिए तत्काल ऑर्डिनेंस निकाल कर, जो 78 प्रतिशत पिछड़ा वर्ग, एससी और एसटी के लोगों के बच्चों को उच्च शिक्षा से वंचित न किया जाए, क्योंकि कमजोर वर्ग के लोग, समाज के जो सुविधा प्राप्त वर्ग हैं, उनकी तरह से सुविधा पाने से वंचित रहे हैं। हजारों वर्षों से इन लोगों की मिट्टी, खेत खलिहान से ही तकदीर जुड़ी हुई है।

MR. SPEAKER: If a Constitution Amendment is required, it may be considered.

… (*Interruptions*)

श्री देवेन्द्र प्रसाद यादव : इसलिए इन लोगों को वंचित न रखने के लिए 27 तारीख के बाद आर्डिनेंस जारी कर सुप्रीम कोर्ट के आर्डर को निरस्त किया जाए।...(व्यवधान)

अध्यक्ष महोदय : आप बैठ जाइए। Do not divide the House in this manner. आपको सुझाव समय पर देना चाहिए। आपके नेता बहुत अच्छे ढंग से बोले cé[i6]।

… (*Interruptions*)

MR. SPEAKER: Please say it one or two sentences. I want to strengthen the hands of the Government in this matter since the Government wants to bring a law, as it says.

श्री मोहन सिंह (देवरिया) : अध्यक्ष महोदय, सुप्रीम कोर्ट ने एक हफ्ते में दो निर्णय दिए और दोनों एक दूसरे की मंशा के विरोध में हैं। एक हफ्ता पहले सुप्रीम कोर्ट ने निर्णय दिया कि जितने भी विशेाज्ञता प्राप्त संस्थान हैं, उनमें दाखिले का इंतजाम प्रदेश सरकारें करें और सामूहिक परिक्षाएं हों। जब राज्य की ओर से निजी संस्थान में प्रवेश के लिए सामूहिक परीक्षाएं होंगी, क्या कोई राज्य देश के बने हुए कानून के विरोध में कोई व्यवस्था कर सकता है? इसलिए राज्य की ओर से जो सम्मिलित परीक्षाएं होंगी तो दाखिले में जो आरक्षण का कानून है, वे उसके ही तहत होंगी। इसलिए सर्वोच्च न्यायालय के एक हफ्ते में दो निर्णय अन्तर विरोधी हैं, जिस की समीक्षा भारत सरकार को करनी चाहिए।

मैं दूसरा आग्रह यह करना चाहता हूं कि हमारे संविधान ने स्टेट्स और संसद को जो अधिकार दिया है कि वह समाज के कमजोर वर्ग के लोगों की तरक्की के लिए निर्देश भी प्रसारित कर सकता है और इसके लिए संविधान में भी संशोधन कर सकता है। संसद के इस कानून बनाने के अधिकार में सर्वोच्च न्यायालय का निर्णय सीधा हस्तक्षेप है। मैं ऐसा मानता हूं कि संसदीय प्रक्रिया में सर्वोच्च न्यायालय का हस्तक्षेप करने की जो परम्परा चल रही है, उसमें यह एक नया अध्याय है। इसलिए भारत सरकार को इस पर दृढ़तापूर्वक विचार करना चाहिए। माननीय मंत्री जी ने संविधान की धारा 29-30 का उल्लेख किया, जो अपने धार्मिक तथा सांस्कृतिक अधिकारों की रक्षा के संबंध में है लेकिन जो स्पैशलाइज्ड एजुकेशन है, उसके ऊपर यह धारा लागू नहीं होती। स्पैशलाइज्ड एजुकेशन के संबंध में, राज्यों को जो कमजोर वर्ग के लोग हैं, उनको विशेा अ वसर के सिद्धांत का पालन करते हुए एक नया कानून लाने की जो बात स्वास्थ्य मंत्री जी ने इसी सदन में कही है, उसे शीघ्रातिशीघ्र पूरा करना चाहिए और संवैधानिक संशोधन करने के लिए सभी दलों के नेताओं की तत्काल एक बैठक बुलानी चाहिए। यही आग्रह करते हुए मैं आपको धन्य वाद देता हूं।

MR. SPEAKER: Shri Varkala Radhakrishnan, please take your seat.

… (*Interruptions*)

MR. SPEAKER: Shri Radhakrishnan, nothing is being recorded.

(Interruptions) *

अध्यक्ष महोदयः यदि आप बोलना चाहते हैं तो अपनी सीट पर बैठे। इधर-उधर क्यों घूमते हैं?

श्री इलियास आज़मी (शाहाबाद) : अध्यक्ष महोदय, आपने इतने महत्वपूर्ण विाय पर मुझे बोलने का अवसर दिया, इसके लिए धन्यवाद देता हूं। मैंने माननीय सदस्यों की बातें बड़े गौर से सुनी। यह सच्चाई है कि जुडिशियरी विधायिका के काम में लगातार हस्तक्षेप कर रही है। अगर कल कोई फैसला आ जाए कि संसद को कानून बनाने का अधिकार नहीं है और वह अधिकार भी सुप्रीम कोर्ट में ट्रांसफर कर लें तो बड़ी बात नहीं है। जरूरत इस बात की है कि जो फैसला आया है, उसे कानून के जरिए बदला जाए। जल्द से जल्द कोई विधेयक लाया जाए। अभी हमारे भाई श्री सुशील कुमार मोदी ने अल्पसंख्यक संस्थानों की बात कही। एक बात पर पूरे सदन की एकराय है, चाहे दक्षिणपंथी हों, वामपंथी हों, कांग्रेस हो या बीएसपी हो, सभी की यह राय है कि मुसलमान शिक्षा में पिछड़ गए हैं। पिछड़ों में जो पिछड़ जाते हैं, उन्हें सहारा देने का कानून संविधान में मौजूद है। जो नया विधेयक आए, उसमें अल्पसंख्यकों को उनकी आबादी के अनुपात से ज्यादा न सही 12-13 परसैंट आरक्षण सभी शिक्षा संस्थानों में देने का प्रावधान सरकार करे। उस नए कानून से देश का भला हो सकेगा। …(व्यवधान)

MR. SPEAKER: He has the right to speak his voice. I am not bound by that.

SHRI ARJUN SETHI (BHADRAK): Thank you, Mr. Speaker, Sir, for allowing me to say a few words about the Supreme Court's verdict regarding the reservation policy in the private institutions. … (*Interruptions*)

… (*Interruptions*)

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*Not Recorded

MR. SPEAKER: Silence please. I am going much beyond the rules of procedure because of the importance of the matter. Please cooperate.

SHRI ARJUN SETHI : I and my party, the BJD, while associating myself with what has been said in the House, support reservation in the private institutions. The hon. Minister has already assured that he is looking into the matter and having intense discussions with the State Governments, various institutions and academicians[r7].

So, may I ask a very specific question? Could he assure the House that within a particular timeframe, he can bring the legislation so that the problem of a number of interpretations may not arise and create confusion throughout the country? … (*Interruptions*)

MR. SPEAKER: Silence please.

SHRI ARJUN SETHI : I request the hon. Minister to assure that this can be taken up within a timeframe, that is, this particular Bill can be brought before the House.

श्री नीतीश कुमार (नालन्दा) : अध्यक्ष महोदय, सबसे पहले मैं आपको धन्यवाद देता हूं कि आपने नियम को शिथिल करते हुए अन्य सदस्यों को भी आमंत्रित किया और मुझे भी अवसर दिया। यह एक बहुत ही महत्वपूर्ण विाय है जिस पर सदन में सर्वानुमति है कि ऐसा क्यों होना चाहिए। इस बारे में सभी माननीय सदस्यों ने अपने तर्क रखे हैं। मैं उनके तर्क से अपनी सहमति व्यक्त करते हुए सिर्फ इतना ही कहना चाहता हूं कि माननीय मंत्री जी 27 अगस्त को मीटिंग करेंगे, प्रोफेशनल एजूकेशन के मंत्रियों को बुलाने में देर लगाएंगे, उसके पहले यहां कुछ करना चाहिए - क्योंकि यह सवाल प्रोफेशनल एजूकेशन का नहीं है, यह सिद्धांत का प्रश्न है। संविधान में जो सिद्धांत सन्निहित है, हम उसके विपरीत नहीं जा सकते। यह सवाल सिर्फ टेक्नीकल एजूकेशन में विद्यार्थियों को आरक्षण देने का नहीं है, यह सिद्धांत का प्रश्न है। इसलिए संसद के दोनों सदनों में जो विभिन्न दल हैं, उनके प्रतिनिधियों, नेताओं की तत्काल बैठक बुलाकर इस पर रिस्पांड करना चाहिए। मेरी समझ में इसमें सर्वानुमति है, कॉनशसनैस है और इसके लिए जो भी विधेयक लाना पड़े, चाहे वह संविधान संशोधन विधेयक ही क्यों न हो, चाहे जिस प्रकार का भी विधेयक लाना पड़े, मैं आग्रह करूंगा कि 27 अगस्त को मंत्रियों की बैठक का इंतजार किए बगैर, इस सत्र के अंतर्गत आप मीटिंग कर सकते हैं और इसमें कोई मतभेद नहीं है, कानून बनाकर इस प्रकार की कभी भी भ्रांति पैदा न हो, ऐसी स्थिति पैदा करें। मैं आग्रह करूंगा कि इस पर गंभीरतापूर्वक विचार करें।

DR. M. JAGANNATH :(NAGAR KURNOOL) Sir, the recent Supreme Court judgement is a big lethal blow to the development of Scheduled Caste, Scheduled Tribe and Other Backward Class candidates. I do not understand the rationale behind the judgement.… (*Interruptions*)

MR. SPEAKER: No one has said it.

DR. M. JAGANNATH : With due apologies to the learned Judges, I say that they have reserved 15 per cent for the NRI candidates while depriving the opportunity to lakhs and crores of SC/ST and OBC people. …

(*Interruptions*)

MR. SPEAKER: You say that you support the proposed Bill.

DR. M. JAGANNATH : Sir, we are supporting that one. But I do not understand the rationale behind it. In one way, they are depriving the poorer sections of the society. Sir, the statistics show that in Andhra Pradesh, there are 1500 seats in medical courses in the Government colleges whereas there are 15,000 seats in the private institutions. Likewise, lakhs and lakhs are there in the private sector. The Government has got its limitation as compared to the developed countries in starting Government institutions. … (*Interruptions*)

MR. SPEAKER: Please, please. I have got another Calling Attention.

DR. M. JAGANNATH : Sir, I will complete it in one minute. Unless the reservation is made in Private Educational Institutions as our hon. Deputy Speaker said, and unless these SC/ST and OBC candidates are educated enough, how are they going to get the opportunity in employment reservation?… (*Interruptions*)

MR. SPEAKER: No, no.

DR. M. JAGANNATH : Sir, I request the hon. Minister of Human Resources Development to take note of this. I also congratulate him for immediately taking a decision to convene a meeting of State Education Ministers. I agree with the observations made by hon. Deputy Speaker that despite the reservation the development of SC/ST people in the various States in their socio-economic strata, they have not improved unfortunately all the sub castes among the Scheduled Castes in Andhra Pradesh, Haryana, Punjab and Karnataka … (*Interruptions*)

MR. SPEAKER: You only say that you support it.

DR. M. JAGANNATH : The sub-reservations in reservation system should also be thought of by the Government.

Thank you very much.

SHRI RAMDAS ATHAWALE (PANDHARPUR): Sir, … (*Interruptions*)

MR. SPEAKER: Shri Ramdas Athawale's name is also associated. Your name is being recorded.

… (*Interruptions*)

MR. SPEAKER: Hon. Members, please take your seats.

… (*Interruptions*)

MR. SPEAKER: I implore you to take your seats.

… (*Interruptions*)

MR. SPEAKER: I beseech you to please take your seats. Do not interfere with this.

… (*Interruptions*)

SHRI K.V. THANGKABALU (SALEM): Sir, I have given a notice… (*Interruptions*)

MR. SPEAKER: Maybe, you have given notice but that does not entitle you. You are a senior Member. Instead of five hon. Members, I have allowed 16 hon. Members because of the importance of the matter. I have said that all are from 16 different parties, and I appreciate the kind concern shown by our hon. Deputy Speaker. His contribution has added to the importance of this matter. Therefore, every section of the House has participated. Let us now hear the hon. Minister[mks8].

I can tell you that I have got 34 parties here but they are a little bit helping me.

Now, the hon. Minister has to reply. Hon. Members, please cooperate. Another important Calling Attention is there.

श्री शैलेन्द्र कुमार (चायल) : अध्यक्ष महोदय, हमारा भी नाम है। …(व्यवधान)

अध्यक्ष महोदय : जिन्हे बोलना है, टेबल पर लिस्ट भेज दीजिये, नाम ऐड हो जायेगा।

… (*Interruptions*)

MR. SPEAKER: Shri Shailendra Kumar, you know that that does not entitle you. Knowing everything, you are only interrupting him. This will not be treated as a precedent in future.

… (*Interruptions*)

MR. SPEAKER: Your party Member has spoken.

श्री राजाराम पाल (बिल्हौर) : अध्यक्ष जी, जिसने नोटिस दिया है,उसे आपने बुलाया नहीं…(व्यवधान)

MR. SPEAKER: So what? You do not do this. I have asked you. Even you could have sent your name. I am very sorry if this is the attitude that is taken. In future, I will not allow other Members except whose names are in the list. Accommodation is not appreciated. I thought all of you would appreciate it.

… (*Interruptions*)

MR. SPEAKER: Nothing will be recorded. Please note that, in future, this defiance of the Chair will not be tolerated.

(Interruptions) *

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*Not Recorded

MR. SPEAKER: This will not be treated as a precedent in future. You have associated with it. Anybody interrupting the hon. Minister will have to go out of this House. There is a limit to everything. Shri Ramdas Bandu Athawale, do you want me to name you? There is a limit to it. A very important issue is being discussed. I have gone out of my way in accommodating Members.

The following hon. Members are permitted to associate with the issue raised in the Calling Attention:

Shri Prahlad Joshi, Shri D. Ravindra Naik, Shri B. Vinod Kumar, Shri Shailendra Kumar, Shri Virendra Kumar, Shri Pradeep Gandhi, Shri Brahmananda Panda, Shri Sugrib Singh, Dr. Satyanarayan Jatiya, Shri Ram Kripal Yadav, Prof. Rasa Singh Rawata, Shri Madhu Goud Yaskhi, Shri Shriniwas Patil and Shri Lalmani Prasad.

SHRI ARJUN SINGH: Hon. Speaker, Sir, listening to the hon. Members across the House on an issue which naturally concerns every section of the people in this country and to the rare unanimity on an issue on which our founding fathers had laid down some salutary principles in the Constitution of India, and as has been mentioned by an hon. Member, the initiative taken by Pandit Jawaharlal Nehru for bringing the backward classes within the ambit of those whose interests have to be furthered and protected, it is very obvious that on this issue the country is one.… (*Interruptions*)

I would like to state very categorically that this Government is committed to the policy of reservation, to the policy of the protection of the social, political structure which the Constitution has recognised. Nonetheless, the fact is that the

hon. Supreme Court has delivered a judgement which does, in many ways, impinge upon the social rights. I would like to make it clear that as soon as it is

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possible, keeping in view all the suggestions made in the House, we will try to address each and every concern in a suitable manner. However, I would like the House to bear in mind that this judgement does not come into force till the next academic session[R9].

This is something which the Supreme Court itself has laid down. So, in fact, we have the time during which we should deliberate and then legislate. The process of deliberation is well-known and I see no difficulty whatsoever in accepting the suggestion of the hon. Member, Shri Nitish Kumar Ji that before the House adjourns, we should have a meeting of all the Leaders of Political Parties on this important issue and take their suggestions directly. The Chief Ministers are naturally representing their States and, therefore, I have addressed my letter to them requesting them to send somebody on their behalf to this meeting so that we can draw up the legislation.

I would also inform the august House that, in fact, we had drawn up the legislation on the basis of consultation with all the States and this judgement has come at a stage where the implementation of that legislation has been disturbed; but our objective will remain the same. I assure the hon. House that before the next academic session – it is the outer limit – or much before that, we will make up our mind. With your consultation, suggestions and support, we will take steps that are needed to strengthen the framework of the

social order which the Constitution of India recognises and which is the law of the land, and that we are able to do something which fulfils the aspirations of the weaker sections of our society. I would only like the House to bear with this because after all this is a judgement of the Supreme Court and out of anger or pique we cannot react to it in any manner which may sound to be rather improper.

With these words, Sir, I thank the hon. Members for their suggestions and I want to assure them that I, not only share what they feel, but also this Government wants to respect the feelings of the hon. Members on this issue and we will act accordingly.

MR. SPEAKER: I am extremely thankful to all the hon. Members on all sides of the House for their kind cooperation on a very important issue. I have decidedly relaxed the rules. It is not to be treated as a precedent and we have found that by cooperation we can dispose of many contentious issues or even important issues like this in a very structured manner. Thank you very much to all of you. I express my gratitude.

Now, Item No. 6, another Calling Attention by Shri Ananth Kumar.

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